

# EXHIBIT 13

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL )  
5 PRESCRIPTION ) MDL No. 2804  
6 OPIATE LITIGATION )  
7 \_\_\_\_\_ ) Case No.  
8 ) 1:17-MD-2804  
9 )  
10 THIS DOCUMENT RELATES ) Hon. Dan A.  
11 TO ALL CASES ) Polster  
12 )

13 WEDNESDAY, APRIL 24, 2019

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
15 CONFIDENTIALITY REVIEW

16 - - -

17 Videotaped deposition of Anna  
18 Lembke, M.D., held at the offices of Lief  
19 Cabraser Heimann & Bernstein, LLP, 275  
20 Battery Street, 29th floor, San Francisco,  
21 California, commencing at 8:07 a.m., on the  
22 above date, before Carrie A. Campbell,  
23 Registered Diplomat Reporter and Certified  
24 Realtime Reporter.

25 - - -

26 GOLKOW LITIGATION SERVICES  
27 877.370.3377 ph | 917.591.5672 fax  
28 deps@golkow.com

1           that the Cochrane analysis had a huge  
2           impact on physicians' perception of  
3           risk --

4       QUESTIONS BY MS. VICARI:

5           Q.       I didn't ask about the Cochrane  
6           analysis. I have limited time. I asked  
7           about the McIlwain study.

8                   MR. ARBITBLIT: Limited time or  
9           not, Counsel, you're supposed to let  
10          her finish.

11                  THE WITNESS: I think I did  
12          answer it.

13       QUESTIONS BY MS. VICARI:

14           Q.       You can't identify any  
15          physicians, correct?

16                  MR. ARBITBLIT: Object to form.

17                  THE WITNESS: Again, I think  
18          that I've answered this before in  
19          other ways, with other defendants  
20          asking similar questions, that  
21          although I don't -- I can't identify  
22          any specific physicians. Broadly this  
23          is misleading marketing messages. We  
24          were all exposed to them in the '90s  
25          and ongoing to today.

1 And it had a significant and  
2 instrumental effect on the way that we  
3 prescribe opioids.

4 QUESTIONS BY MS. VICARI:

5 Q. Dr. Lembke, you would agree  
6 with me that as a general matter, a patient's  
7 exposure to an ineffective medical treatment  
8 should be minimized, correct?

9 MR. ARBITBLIT: Object to form.  
10 Incomplete hypothetical.

11 THE WITNESS: It says here --  
12 can you restate because it says  
13 "shouldn't be minimized." But I think  
14 you meant should be minimized.

15 QUESTIONS BY MS. VICARI:

16 Q. That is a mistake in the  
17 transcript.

18 You would agree with me that a  
19 patient's exposure to an ineffective medical  
20 treatment should be minimized?

21 MR. ARBITBLIT: Object to form.

22 THE WITNESS: I do agree with  
23 that.

24 MS. VICARI: Thank you. I have  
25 no further questions. We can go off

1 the record. I'll pass the witness.

2 VIDEOGRAPHER: We're now going  
3 off the record, and the time is  
4 5:07 p.m.

5 (Off the record at 5:07 p.m.)

6 VIDEOGRAPHER: We're now going  
7 back on the record, and the time is  
8 5:08 p.m.

9 CROSS-EXAMINATION

10 QUESTIONS BY MS. HOLLY:

11 Q. My name is Pam Holly. I'm an  
12 attorney with Morgan Lewis, and we represent  
13 Teva Pharmaceuticals, USA, Cephalon, Inc.,  
14 Actavis Pharma, Watson Laboratories and  
15 Actavis, LLC.

16 Are you familiar -- or are you  
17 aware that Watson Laboratories is a party to  
18 this action?

19 A. I was not aware.

20 Q. Is it fair to say that you  
21 don't know what opioid medications they sell?

22 A. I know what opioids Teva  
23 Pharmaceuticals sells, so if that's all part  
24 of the same entity, Actiq and Fentora.

25 Q. So is it fair to say that you

1 don't know what opioids Watson Labs sells,  
2 correct?

3 A. Correct.

4 Q. Are you aware that Actavis  
5 Pharma is a part of this litigation?

6 A. I believe that Actavis Pharma  
7 was mentioned in combination with Allergan.

8 Q. A different entity, not Actavis  
9 Pharma.

10 A. Okay. Okay.

11 Q. So it's fair to say that you're  
12 not aware that Actavis Pharma is a party to  
13 this litigation?

14 A. It's fair to say that I'm not  
15 aware of the various mergers, and it is very  
16 confusing. So I'm not entirely aware of who  
17 owned what when.

18 Q. Are you aware that Actavis,  
19 LLC, is a party to this litigation?

20 A. I wasn't aware, but I am aware  
21 now.

22 Q. Are you aware of what opioid  
23 medications they sell?

24 A. No.

25 Q. Are you aware that generic

1 manufacturers do not -- excuse me, do not  
2 market their products?

3 A. I wasn't specifically aware of  
4 that, no.

5 Q. Are you aware that Teva  
6 Pharmaceuticals USA is a party to this  
7 litigation?

8 A. Yes.

9 Q. Do you know what products Teva  
10 Pharmaceuticals --

11 A. Actiq and Fentora.

12 Q. Your report makes no reference  
13 to Teva Pharmaceuticals USA, so it's fair to  
14 say that you can't offer an opinion to a  
15 reasonable degree of medical certainty about  
16 the marketing of Teva USA; is that correct?

17 A. I disagree. If they're named  
18 in the complaint, and I see all the  
19 defendants as party to the litigation, and --

20 Q. Any -- pardon me.

21 A. Go ahead. Go ahead.

22 Q. I was going to ask you to point  
23 me to a reference in your report to Teva  
24 Pharmaceuticals USA.

25 We may have to go off the

1 record, but I only have five minutes.

2 A. Sorry. Yeah. There's no  
3 specific reference in my report to Teva  
4 Pharmaceuticals, but if they're named in the  
5 complaint, I believe -- I agree with the  
6 complaint, and my report applies to all the  
7 defendants in particular as pertains to the  
8 misrepresentation of the benefits and risks  
9 of opioids more broadly as a class of drugs.

10 Q. So Appendix I of your report  
11 has five sections, correct?

12 A. Yes.

13 Q. And none of those five sections  
14 relate to Teva Pharmaceuticals or Cephalon,  
15 correct?

16 A. That's correct.

17 Q. So it's fair to say that in  
18 your report, you're not offering an opinion  
19 in this litigation about the marketing  
20 conducted by those entities, correct?

21 A. No. I feel like I answered  
22 that question already.

23 Q. Well, I don't -- I disagree  
24 with all due respect.

25 There's no section -- what is



1 the title of Appendix I?

2 A. Appendix I?

3 Q. In the table of contents, you  
4 refer to it as misleading promotional  
5 messages, correct?

6 A. Yes.

7 MR. ARBITBLIT: That's it.  
8 Thank you, Counsel. It's been nice.  
9 Feel free to take whatever is left  
10 over at the end, sandwiches, I mean.

11 VIDEOGRAPHER: Shall we  
12 conclude?

13 MR. ARBITBLIT: Yes.

14 VIDEOGRAPHER: Okay. This  
15 concludes the video deposition of Anna  
16 Lembke. We are --

17 MS. HOLLY: I'm sorry, I did  
18 not have five minutes.

19 MS. DO AMARAL: You did.

20 MS. HOLLY: I did not have five  
21 minutes.

22 VIDEOGRAPHER: I have five.

23 MS. HOLLY: I am --

24 MR. ARBITBLIT: What does your  
25 timer say, Pam? Have you timed

1                   yourself?

2                   MS. HOLLY: Yeah, my time is  
3                   three minutes.

4                   MS. DO AMARAL: No. No, sorry.

5                   MR. ARBITBLIT: No.

6                   MS. DO AMARAL: Your  
7                   codefendants, the videographer, and by  
8                   my count --

9                   MS. HOLLY: All right. I'm  
10                  going to state for the record that I  
11                  have specific time to ask questions  
12                  that I intended to ask on behalf of my  
13                  clients, and I object and don't agree  
14                  to close the deposition, and I reserve  
15                  all rights to raise with the Court to  
16                  request the appropriate relief,  
17                  including any deposition testimony  
18                  that went unanswered here today.

19                  MR. ARBITBLIT: Well, let's do  
20                  two more minutes, Pam, and ask your  
21                  questions. Let's not fight about two  
22                  minutes.

23                  MS. HOLLY: Okay. Well, then I  
24                  need -- I need -- I need full two  
25                  minutes.